Every ordinance must be definite and certain in its terms. MACQUILLAN, MUNICIPAL ORDINANCES, Sec. 651. In the instant case the court pointed out three particular reasons why the ordinance was indefinite. In the case of the food laws and Sunday closing laws, the failure to require knowledge on the part of the offender is not a mark of uncertainty. The court, however, distinguishes those cases by pointing out that the offender has control over the subject matter and can protect himself, while in this case the court was able to conceive of a situation, which, though highly improbable, was not within his control. The second reason seems to ignore the right of the state to take a limited amount of the property of blameless individuals by an exercise of the police power. *Noble State Bank* v. *Haskell,* 219 U. S. 104. The third reason is also very doubtful when considered in the light of those cases following "the rule of reason" laid down by the court in *The Standard Oil Co.* v. *United States,* 221 U. S. 1. In a very recent case in Ohio, not referred to, the Supreme Court held that a statute is valid if it is as definite and certain on the subject matter and the numerous situations arising thereunder, as the nature of the case and safety of the public will reasonably admit. *State* v. *Schaeffer* (Ohio), 117 N. E. 220.

PUBLIC OFFICERS—STATE TREASURER—LIABILITY FOR INTEREST ON FUNDS. —Defendant, a state treasurer, deposited in banks from time to time the funds received by him as treasurer and collected the interest for himself. *Held,* such treasurer is not entitled to interest. *State* v. *Schamber* (S. Dak., 1917), 165 N. W. 241.

There is a direct conflict of authorities on this question. In almost all of the adjudicated cases, courts recognize the fundamental proposition that interest is but an increment and goes with the principal. In a number of jurisdictions the question has been made to depend upon whether the relation of the treasurer to the state was that of debtor and creditor or whether it was that of trustee and *cestui que trust.* Perhaps the leading case supporting the view that the relation is that of debtor and creditor is *State* v. *Walsen,* 17 Colo. 170, which holds that a state treasurer who has received public money by virtue of his office is not liable for interest received on that money in the absence of a statutory provision to that effect. A county treasurer receives money as his own and cannot be required to account for and pay over amounts collected or received as interest on such money. *Shelton* v. *The State,* 53 Ind. 331. A public official is not chargeable with interest on the public funds in his hands although he may have received interest, unless he is required by law to place it in some safe depository as the money of the state. *Commonwealth* v. *Goldshaw,* 92 Ky. 435. A county treasurer is a special bailee and there can be no recovery of interest received by him after he has gone out of office. *Maloy* v. *Bd. of County Commissioners, Bernalillo,* 10 N. M. 638. The weight of authority, however, supports what seems to be the better view, that the interest which attaches to the principal belongs to the state and on failure to account for this the officer or his sureties may be held liable. This rule is applied notwithstanding the fact that the officer's liability was held or assumed to be absolute. *Adams* v. *Williams,* 97 Miss.

113. The leading case on this side of the question is *State* v. *McFetridge,* 84 Wis. 473, where all the authorities are reviewed. The supporting cases hold that it is a complete *non sequitur* to say that because a public officer who has charge of public funds is an absolute insurer, he therefore is entitled to the accruing interest thereon. A county treasurer is liable to the county for interest received on deposits of county funds. His liability arises not only from his fiduciary relations but from the fact that the interest belongs to the county and comes into his hands by virtue of his office. *Richmond County Supervisors* v. *Wandel,* 6 Lans. (N. Y.) 33. Instead of being the debtor of the district, he is its treasurer; the custodian of its funds; and he acquires custody of the funds without acquiring title to them. *Eshelby* v. *Cincinnati Bd. of Education,* 66 Ohio St. 71. A public officer is not entitled to interest on funds received by virtue of his office. The true test is not whether he is absolutely liable to account but whether he is the owner of the funds in his hands. *Rhea* v. *Brewster,* 130 Ia. 729.

TAXATION—INCOME TAX—ROYALTIES OF MINES AS INCOME—DEPRECIATION. —Plaintiff corporation leased two iron mines, the lessees agreeing to pay certain specified royalties annually on the ore taken out. The Wisconsin Income Tax Law, LAWS 1911, c. 658, 1, provided that "income" as used in the act should include "all rent of real estate", and permitted a reasonable deduction for depreciation of property from which the income was derived. Under this act taxes were collected on the royalties received by the plaintiff, but no deduction was allowed for the depletion of the ore deposits. This action was brought to recover the taxes paid under protest. *Held,* that no recovery should be allowed. *Pfister Land Company* v. *Milwaukee* (Wis., 1917), 165 N. W. 23.

In holding that the value of the ore as it leaves the mine was income and not converted capital, and therefore that the royalties paid by the lessees to the owners were to be regarded as rents within the meaning of the Income Tax Law, the Wisconsin court has relied expressly upon the authority of *Von Baumbach* v. *Sargent Land Company,* 242 U. S. 503, and *State* v. *Royal Mineral Association,* 132 Minn. 232. The fundamental principle upon which these holdings are based seems to be as follows: that the land itself is the chief thing, that mining is one of the productive uses of which the land is capable, and that the product of that use should be called income. In a case recently decided in the Circuit Court of Appeals, *Biwabick Mining Company* v. *U. S.,* 243 Fed. 9, it was held that, from the lessee's standpoint, receipts from the sale of ore represented conversion of capital assets and did not constitute taxable income. This case has now been carried up for review by the Supreme Court. The position for which the appellant contended in the principal case, that the contract between the parties is not accurately speaking a lease but a sale of a part of the corpus of the property, has been approved by the English courts and has found some support in this country. *Coltness Iron Company* v. *Black,* 6 A. C. 315; *Stoughton's Appeal,* 88 Pa. 98; *Blakley* v. *Marshall,* 174 Pa. 425; *Wilson* v. *Youst,* 43 W. Va. 826. Its further contention that the extraction of the ore is an exhaustion of the